

# ORDINANCE NUMBER 79

## CITY OF TOWER, MINNESOTA

An ordinance implementing the wetland conservation act of 1991, (Minnesota Laws 1991, Chapter 354, as amended), and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minnesota Rules Chapter 8420, as amended)

The City of Tower Ordains:

Section 1. INCORPORATION BY REFERENCE. This Ordinance is incorporates by reference the Act and the Rules. Terms used in this Ordinance which are defined in the Act or the Rules have the meanings given here.

Section 2. SCOPE. This Ordinance regulates the draining and filling of wetlands and parts of wetlands within the city of Tower. It is part of the official controls of the City of Tower. Conflicts with other official controls must be resolved in favor of providing the most wetland protection.

Section 3. PROCEDURES.

Subdivision 1. Exemption and no-loss determinations. Exemption and no-loss determinations under Minnesota Rules parts 8420.0210 and 8420.0220 shall be made by the Zoning Administrator. The Administrator should seek the advice of the technical evaluation panel on questions of wetland delineation and type. The administrator's decision is final unless appealed to the Board of Adjustment within 30 days.

Subdivision 2. Sequencing and Replacement Plan Decisions. Sequencing and replacement plan decisions under Minnesota Rule part 8420.0520 - .0550 shall be made following the same procedures as for conditional use permits plus the additional notice and time requirements of part 8420.0230. If the amount of wetland to be drained or filled is less than one-tenth of an acre, the sequencing determination under Minnesota Rule part 8420.0520 shall be made by the Zoning Administrator.

Subdivision 3. Monitoring. The Zoning Administrator shall assure that the replacement plan monitoring and enforcement requirements of Minnesota Rule part 8420.0600 - .0630 are fulfilled.

Subdivision 4. Wetland Banking. Wetlands may be restored or created within the City of Tower for purposes of deposit in the wetland bank in accordance with Minnesota Rules parts 8420.07000- .0760. The Zoning Administrator is responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.

Subdivision 5. Appeals. Decisions made under this Ordinance may be appealed to the Board of Water and Soil Resources under Minnesota Rule Part 8420.0250, after administrative appeal rights under the official controls have been exhausted.

Subdivision 6. Variances. The Board of Adjustment may issue variances from the official controls of the City of Tower so long as the variances do not vary requirements of the Act or Rules.

Subdivision 7. Technical evaluation panel. The City Council of the City of Tower shall appoint a person to serve on the technical evaluation panel. The person must be a technical professional with expertise in water resources management.

Decisions under this Ordinance must not be made until after receiving the determination of the technical evaluation panel regarding wetland public values, location, size, and/or type if the decision-maker, the landowner, or a member of the technical panel asks for such determinations. This requirement does not apply to wetlands for which such data is included in an approved comprehensive wetland management plan per Minnesota Rule part 8420.0240. The Planning Commission may seek and shall consider recommendations, if any, made by the technical evaluation panel in making replacement plan decisions.

Section 4. HIGH PRIORITY AREAS. Decisions regarding sequencing, replacement plans, and banking shall particularly favor preservation, restoration, and creation of wetlands in high priority areas as identified in water management plans pursuant to Minnesota Rule Part 8420.0350.

Section 5. DELEGATION. The City Council of the City of Tower may by joint powers agreement delegate to the soil and water conservation district under M.S. sections 471.59 and 103C.331, subdivision 19, the authority to administer all or any part of this ordinance.

Introduced by Alderman Majerle and given first reading on January 12, 1994.

Given Second reading on February 9, 1994 by Alderman Hiltunen.

Motion by Hendrickson supported by Hiltunen to adopt and publish said ordinance.

Ayes: Burgess, Hiltunen, Majerle, Mickle, Hendrickson.

Nays: None.

Published in Tower News on February 24, 1994.

Attest:

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Gary Burgess, Mayor

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Timothy L Kotzian City Clerk-Treasurer